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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/578,851

05/10/2006

Antero Heinonen

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09/29/2009

EXAMINER

SUERETH, SARAH ELIZABETH

ART UNIT

PAPER NUMBER

3749

MAIL DATE

DELIVERY MODE

09/29/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/578,851	Applicant(s) HEINONEN, ANTERO	
	Examiner Sarah Suereth	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/10/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 11-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 11, lines 7-8, it is unclear whether one or two separators are being claimed. Applicant shows in the Figures two separators, and the claims were regarded as such for examination purposes. However, applicant is required to correct claim 11 to clarify on the record.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molitor (4407266) in view of Hepner (4235220) (cited on applicant's IDS).
5. Molitor discloses at least one hood (10), which is intended to be installed above the kitchen appliance (col. 3, lines 17-20), an exhaust-air connection (17 and 25) for connecting the hood to the exhaust duct (12), and a separator (E), for separating grease from the exhaust air (see "liquid particles" col. 7, lines 9-24), characterized in that the arrangement further includes a cell (12 and 29,28,24,26), which is arranged after the

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hood (10) and is separate from the hood (10), and to which a separator (E) is fitted, and which is connected to the exhaust-air duct (12); an intake air connection (D) that is capable of varying the exhaust temperature and flow using a temperature sensor (42) inside the cell (Figure 1), a heat exchanger (H), a motorized fan (col. 6, line 18) and a damper (68).

As discussed above in the 112 rejection, it is unclear whether claim 11 is meant to include two separators or only one. However, it is clear from applicant's disclosure that two separators are included at different locations. Molitor, as discussed above, discloses the invention of claim 11 with the exception of a second grease separator arranged as claimed. Molitor shows only one separator (E) located near the hood (10). Molitor shows the air bypass duct (D) joining the exhaust stream at a point just downstream of the grease separator (E).

Hepner discloses a system for ventilating an appliance including an oven hood (12) with one separator (Figure 4, see element 52) located adjacent the hood, and a second separator (60) located inside the exhaust duct (58).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Molitor apparatus to include a second separator in the exhaust duct (12), in order to remove any particles or odors remaining in the exhaust stream that have not been extracted by the previous filter (Hepner, col. 5, lines 35-38).

The examiner considers Hepner to suggest placing the filter in the exhaust duct (12), which would allow the temperature controlled exhaust stream to flow through as claimed.

Regarding claims 12 and 13, the cell is regarded as elongated and horizontal, and Hepner is regarded to suggest placing a filter in the claimed location.

Regarding claim 14, Moliter shows a duct (D), but does not explicitly show nozzles attached to the duct. However, the examiner takes Official Notice that it was old and notorious in the art to use nozzles to supply air. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Moliter apparatus to include air supplying nozzles, for the well known purpose of increasing the velocity of the air supplied through the duct.

Regarding claim 15, intake air duct (D) is joined to ventilation duct (13).

Regarding claim 16, elements 26 and 27 are regarded as baffles.

Regarding claim 17, water is supplied through nozzles (38).

Regarding claims 18-20, Moliter does not disclose the relative dimensions of the air duct. The courts have held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device. (In *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984), also MPEP 2144.04).

In this case, the precise size and shape of the mixing cell is a matter of obvious design choice.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah Suereth whose telephone number is (571) 272-9061. The examiner can normally be reached on Tuesdays & Thursdays 8:00AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve McAllister can be reached on (571) 272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sarah Suereth/
Examiner, Art Unit 3749

/Steven B. McAllister/
Supervisory Patent Examiner, Art Unit 3749